

Docket No.: 514572000600
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Xu ZHANG et al.

Application No.: 10/538,498

Confirmation No.: 7048

Filed: December 31, 2002 (Int'l)

Art Unit: 1648

For: MAGNETISM BASED RAPID CELL
SEPARATION

Examiner: S. Snyder

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the restriction requirement set forth in the Office Action mailed March 19, 2007 (Paper No. 20070223), for which a response was due on April 19, 2007. Filed herewith is a Petition and fee for a one-month extension of time, thereby extending the deadline to May 19, 2007, which is a Saturday. Accordingly, this response to timely filed.

The Examiner has required restriction between Group I, claims 1-41; Group II, claims 42-43; Group III, claims 44-54; Group IV, claim 55. The Examiner further required election of species.

In response, Applicants hereby provisionally elect Group I, claims 1-41 for continued examination. Applicants further provisionally make species election as follows: target cell as product to be isolated (claims 1, 2, 5-41); whole blood as origin of sample (claims 1-33); paramagnetic substance as nature of magnetizable substance (claims 1-41); 200 nanometers as diameter of microbead (claims 1-41); modified with hydroxyl group as presence and/or nature of microbead modification (claims 1-41); washing the separated conjugate to remove the undesirable constituents as additional steps following separation of product from undesirable constituents (claims 1-41); automated process as manual or automated nature of the method (claims 1-41); 10 minutes as time of procedure (claims 1-41); eppendorf tube as nature of vessel in which method is practiced (claims 1-41); process conducted in the absence of a precipitating procedure, in the absence of a poisonous agent, and in the presence of a detergent as presence or absence and/or nature of precipitating, poisonous, salts or detergents (claims 1-41); room temperature as temperature at which the method is practiced (claims 1-41); pH 6.0 in which a cell is contacted with the magnetic microbead for pH range in which method is practiced (claims 1-41); ion concentration as one third of that in the normal whole blood as ion concentration in which method is practiced (claims 1-41); low-temperature conserved as freshness of sample (claims 1-41).

Applicants expressly reserve their right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application. Applicants note that upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim. Applicants request that upon the allowance of a generic claim, the remainder of the species be included as permitted by 37 C.F.R. §1.141(a).

Applicants request examination of the elected claims on the merits.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 514572000600. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 21, 2007

Respectfully submitted,
Electronic signature: /Peng Chen/

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